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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

BRADY K. ARMSTRONG,)	Case No.: 1:13-cv-00246-AWI-SAB (PC)
Plaintiff,)	
v.)	ORDER ADOPTING FINDINGS AND
M.E. SPEARMAN, et al.,)	RECOMMENDATION, DENYING WITHOUT
Defendants.)	PREJUDICE RULE 12(B) MOTION TO
)	EXHAUSTION ADMINISTRATIVE REMEDIES,
)	DENYING MOTION TO DISMISS FOR FAILURE
)	TO STATE COGNIZABLE CLAIM, AND
)	GRANTING IN PART AND DENYING IN PART
)	MOTION TO AMEND
)	
)	[ECF Nos. 28, 32, 43]
)	

Plaintiff Brady K. Armstrong is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. On June 9, 2014, the Magistrate Judge filed a Findings and Recommendations which were served on the parties and which contained notice to the parties that Objections to the Findings and Recommendations were to be filed within twenty days. No Objections were filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the Findings and Recommendations to be supported by the record and by proper analysis.

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Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed on June 9, 2014, is adopted in full; and
2. Defendants' unenumerated Rule 12(b) motion for failure to exhaust the administrative remedies is DENIED without prejudice;
3. Defendants' motion to dismiss pursuant to Rule 12(b)(6) for failure to state a cognizable claim for relief is DENIED; and
4. Plaintiff's motion to amend is granted in part and denied in part and the action shall proceed on Plaintiff's amended complaint based on the cognizable claims set forth in Magistrate Judge's June 9, 2014, Findings and Recommendations.

IT IS SO ORDERED.

Dated: September 4, 2014



SENIOR DISTRICT JUDGE